IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 21ST AUGUST 2007 / 30TH SRAVANA 1929

Bail Appl..No. 5073 of 2007(P)

[CRIME NO.304/07 OF BALUSSERY POLICE STATION]

PETITIONER/1ST ACCUSED

P.K.ABDUL BASHEER, S/O. MAYAN,
AGED 48 YEARS, RESIDING AT "PUTHIYEDATH KANDIYIL",
UNNIKULAM AMSOM DESOM, KOYILANDY TALUK,
KOZHIKODE DISTRICT.

BY ADV. SRI.C.P.MOHAMMED NIAS
SRI.SRINATH GIRISH
SRI.P.M.HARRIS

RESPONDENTS: COMPLAINANT/STATE

STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
REPRESENTING SUB INSPECTOR OF POLICE,
BALUSSERY POLICE STATION, KOZHIKODE DISTRICT.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 21/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.5073 of 2007

Dated this the 21st day of August 2007

O R D E R

Application for anticipatory bail. The petitioner is the first accused. He is the husband of the de facto complainant. The crime is registered inter alia under Section 498A I.P.C. The crime has been registered on the basis of a private complaint filed before the learned Magistrate and referred by the learned Magistrate to the police under Section 156(3) Cr.P.C. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The marriage took place on 29/08/1996. There are two children in the wedlock aged 10 years and 8 years. The learned counsel for the petitioner submits that there is some strain in the matrimonial tie and such strain is prompting the de facto complainant to make the reckless, false and exaggerated allegations against the petitioner.

3. The learned counsel for the petitioner prays, the learned Public Prosecutor does not oppose the said prayer and I am satisfied in the circumstances to which brief reference has

already been made by me that the petitioner can be granted anticipatory bail. In coming to this conclusion, the fact that the petitioner is not alleged to be guilty of any physical cruelty resulting in injuries and the reality that if the petitioner were arrested and detained in custody, that would close the doors of all possible harmonious reconciliation of the matrimonial dispute do weigh with me considerably.

4. In the result, this petition is allowed. Following directions are issued under Section 438 Cr.P.C in favour of the petitioner.

i) Petitioner shall surrender before the learned Magistrate having jurisdiction at 11 a.m on 30/08/2007.

ii) He shall be released on regular bail on condition that he executes a bond for Rs.25,000/-(Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

iii) The petitioner shall make himself available for interrogation before the investigating officer between 10 a.m and 3 p.m on 31/08/2007 and 01/09/2007 and thereafter on all Mondays and Fridays between 10 a.m and 12 noon for a period

of two months and subsequently as and when directed by the investigating officer in writing to do so.

(iv) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law, as if these directions were not issued at all.

(v) If he were arrested prior to 30/08/2007, he shall be released from custody on his executing a bond for Rs.25,000/- (Rupees twenty five thousand only) without any sureties, undertaking to appear before the learned Magistrate on 30/08/2007.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007